

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVISIONS TO LEVEL PAYMENT PLAN RULES [199 IAC 19.4(11) AND 20.4(12)]	DOCKET NO. RMU-04-5
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ORDER COMMENCING RULE MAKING

(Issued June 21, 2004)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, 476.2, and 476.20 (2003), the Utilities Board (Board) proposes to rescind the current level payment plan rules found in 199 IAC 19.4(11)"e" and 20.4(12)"e" and proposes new paragraphs 19.4(11)"e" and "f" and 20.4(12)"e" and "f" as reflected in the "Notice of Intended Action" attached hereto and incorporated herein by reference. The proposed changes to the level payment plan rules are the result of an inquiry conducted by the Board to address issues raised by participants in Docket No. NOI-03-3, In re: Review of Level Payment Plan Rules. This rule making proceeding has been identified as Docket No. RMU-04-5.

The Board opened the inquiry into the level payment plan rules because utilities were following different procedures when applying the current rules and some of those procedures resulted in monthly payments that were subject to dramatic swings. Additionally, the Board granted Atmos Energy Corporation (Atmos) a limited waiver for 18 months that allowed Atmos to use a rolling 12-month average calculation to establish a monthly payment. The Board requested interested persons

file comments concerning the current rules and propose changes to the rules. The Board also directed rate-regulated utilities to provide a sample of level payment accounts to Board staff.

Linn County Rural Electric Cooperative (Linn County), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), Aquila, Inc. d/b/a Aquila Networks (Aquila), the Iowa Association of Electric Cooperatives (IAEC), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and Atmos participated in the inquiry.

The current level payment plan rules were promulgated approximately 20 years ago with the intent of giving customers a more predictable and stable monthly utility payment. By agreeing to a level payment plan, the customer could reduce dramatic changes in gas and electric bills caused by fluctuations in consumption such as summer air conditioning or winter heating and could alleviate the effect of rapidly increasing electric rates that occurred in the late 1970s and early 1980s.

The current rules are similar for electric and gas usage and provide that a customer may enter the plan at any time during the year and the month of entry will be the anniversary month. The rules require the monthly level payment to be calculated by dividing the sum of estimated charges for the next 12 months by the number of billing intervals, usually 12 monthly payments. The level payment plan account balance each year is carried forward and added to, or subtracted from, the estimated charges for the next year to calculate the next year's monthly payment. The level payment is calculated at the time of entry and then may be recomputed on

the anniversary date, when requested by the customer, or whenever the price of the service or the customer's consumption, alone or in combination, results in a new estimated payment differing by 10 percent or more from that which the customer is currently paying.

Board staff analyzed the data provided by the rate-regulated utilities, MidAmerican, IPL, Atmos, Aquila, and Linn County. Based upon that analysis, Board staff developed several spreadsheets showing the frequency and fluctuations of monthly level payments and customers' account balances. The analysis compared the fluctuations in customer monthly payments for actual consumption under current level payment plan rules and using a rolling 12-month average payment plan. The analysis showed that monthly payments of natural gas customers and combination customers, natural gas and electric, were subject to significant fluctuations under the current level payment plans.

On March 31, 2004, the Board conducted a workshop to share the results of the analysis and to discuss proposed changes to current level payment plan rules. MidAmerican, Consumer Advocate, Atmos, IPL, IAEC, the Iowa Association of Municipal Utilities (IAMU), the Energy Assistance Bureau of the Department of Human Rights (Human Rights), and Aquila participated in the workshop. Participants were allowed to file additional comments after the workshop. MidAmerican, Atmos, and IPL filed additional comments or information. Aquila provided information describing how use of a rolling 12-month average calculation method might affect account balances.

Based upon the analysis of the sample bills and the comments from the participants, the Board is proposing new level payment plan rules that will allow a utility more flexibility in establishing a method for calculating the monthly level payment amount and setting an anniversary date other than the date of entry into the plan. The proposed rules will allow continuation of the current method, adoption of a rolling 12-month average calculation method with monthly reconciliation, or establishment of a different calculation method. The level payment plan calculation method will be required to be described in the utility's tariff and must be filed for Board review and approval.

Because of the significant differences between the current rules and the proposed rules, the Board is proposing to rescind the current level payment plan rules and is proposing new rules in paragraphs 19.4(11)"e" and 20.4(12)"e." As part of the revisions to the level payment plan rules, the Board is also proposing to move the language concerning the delinquency date for making a payment to new paragraphs 19.4(11)"f" and 20.4(12)"f."

The current rule provides that the delinquency date for paying the bill, also known as the selected due date, can be changed for cause. The current rule provides an example where the delinquency date could be changed to within 15 days from the date a customer receives regular income. The current rule provides that the utility could prohibit a delinquency date from being changed to a date later than 30 days after the preparation date of the previous bill. The Board is moving this

provision to the new paragraphs since the provision applies to all bills, not just bills for level payment accounts.

The Board has set out below the proposed new paragraphs 19.4(11)"e" and "f" with a brief explanation after each provision of the proposed language. These proposed paragraphs apply to gas service. The same provisions are being proposed in paragraphs 20.4(12)"e" and "f" for electric service and, therefore, are not reproduced in this order. The attached "Notice of Intended Action" contains all of the proposed rule changes. These proposed changes will be published in the Iowa Administrative Bulletin and editorial changes may be made by the Iowa Administrative Code Editor.

19.4(11)

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

This provision requires a utility to offer a level payment plan and provides that the plan should be designed to limit the volatility of customer's bills and the size of account balances.

(1) Be offered to each eligible customer when the customer initially requests service.

This provision requires the utility to make the level payment plan available to all eligible customers and is similar to language in the current rule.

(2) Allow for entry into the level payment plan anytime during the calendar year.

This provision requires the utility to allow a customer to enter into a level payment plan at any time during the year and is similar to language in the current rule. This provision does not contain the language in the current rule that requires a fixed anniversary date. This proposed change would allow utilities the flexibility to choose an anniversary date other than the date the customer enters the program.

(3) Provides that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance is due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.

This provision allows a customer to terminate or withdraw from the plan at any time. Any arrearage will become due upon withdrawal and the provision does not contain what appeared to be conflicting language in the current rule that would allow the utility to "hold" a customer in the plan until the account balance is paid in full. The proposed language is similar to the current rule since it provides that the customer retains the option of receiving a refund of any credit balance or having it applied to future bills.

This provision provides that a customer must wait six months before being eligible for another level payment plan. This limitation is based upon a concern expressed in the inquiry.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and complies with requirements in this subparagraph. The computation method used by the utility must be described in the utility's tariff and shall be subject to Board review and approval. The utility shall give notice to affected customers after Board approval of changes in the computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and must be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than 30 days prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

The language in the first unnumbered paragraph allows the utility more flexibility to develop a level payment plan computation method tailored to its individual requirements, including the use of forward-looking factors, as long as it

provides the basic protections set forth in the rule. The proposed rules require that the level payment computation method be described in the utility's tariffs and any changes to the computation method must be approved by the Board.

The language in the second unnumbered paragraph provides that the level payment amount shall be computed at the time of entry into the plan (similar to the current rule) and shall be recomputed at least annually. It allows flexibility for recomputing more often (allowing for use of rolling 12-month averages), in addition to recomputing at customer request or when it produces a change of 10 percent or more.

The language in the third unnumbered paragraph requires the utility to divide the customer's account balance by 12 and add that amount to any recomputed level payment amount (including rolling 12-month averages). This ensures that any accumulated balances (whether positive or negative) will be addressed. Aside from monthly re-computations, such as rolling 12-month averages, customers retain the right to cash-out credit balances over \$25 or apply them to future bills. In the inquiry docket, utilities suggested eliminating the refund option or allowing the utility to set the threshold amount, but the Board is proposing to retain the current \$25 threshold.

The fourth unnumbered paragraph retains the current requirement to give 30 days notice of any change in the recomputed level payment amount, except for monthly re-computations such as rolling 12-month averages. It was requested during the inquiry that utilities not be required to provide the reason for the change in the

notice since it would require additional changes to the utilities' billing systems. The proposed rule reflects that request.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.

This is similar to language in the current rule.

f. A utility shall provide that a delinquency date for payment may be changed upon written request by a customer to accommodate the date the customer receives income or other similar circumstances. The utility may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

This paragraph contains the language allowing a customer to request a change in the delinquency date for payment and allows the utility to limit that change to 30 days after the date of preparations of the previous bill.

Comments concerning the proposed amendments are scheduled to be filed on July 27, 2004. An oral presentation is scheduled for 9 a.m. on September 1, 2004. Confirmation of these dates and the final version of the proposed amendments will be published in the Iowa Administrative Bulletin.

To help the Board understand the costs of the proposed amendments, the utilities are asked to provide estimates of any additional costs that might be generated by the new level payment plan rules. These estimates may be filed with the utilities' comments in this docket.

IT IS THEREFORE ORDERED:

1. A rule making proceeding identified as Docket No. RMU-04-5 is commenced for the purpose of receiving comments on the proposed changes to the Utilities Board rules in the notice attached hereto and incorporated herein by reference in this order.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 21st day of June, 2004.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.20, the Utilities Board (Board) gives notice that on June 21, 2004, the Board issued an order in Docket No. RMU-04-5, In re: Revisions to Level Payment Plan Rules [199 IAC 19.4(11) and 20.4(12)], "Order Commencing Rule Making." The proposed amendments are the result of an inquiry into the Board's level payment plan rules, See Docket No. NOI-03-3, In re: Review of Level Payment Plan Rules. The Board proposes to rescind the current level payment plan rules found in paragraphs 19.4(11)"e" and 20.4(12)"e" and adopt revised level payment plan rules in new paragraphs 19.4(11)"e" and 20.4(12)"e." The Board is also proposing to adopt new paragraphs 19.4(11)"f" and 20.4(12)"f." The order containing the background and support for this rule making can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed rule making. The statement must be filed on or before July 27, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). Utilities are requested to provide an estimate of any additional costs they believe will be generated by the changes in the level payment plan rules. All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive oral comments on the proposed amendments will be held 9 a.m. on September 1, 2004, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.20.

The following rescissions and new paragraphs are proposed.

Item 1. Rescind paragraph **19.4(11)"e"** and adopt a **new** paragraph as follows:

~~e. Level payment plan. All residential customers or other customers whose consumption is less than 250 ccf per month may select a plan of level payments.~~

~~The rules for such plan shall include at least the following:~~

~~(1) Be offered when the customer initially requests service.~~

~~(2) Have a date of delinquency changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. The utility's rules may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.~~

~~(3) Set a delinquency date. Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer's anniversary month. Customers may submit a written request to the utility for a change in the delinquency date. An example of an acceptable justification~~

~~for a change in delinquency date would be to align the delinquency date with the customer's reoccurring payday. The utility's plan may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.~~

~~(3) Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer's anniversary month.~~

~~(4) The billing period level payment to be the sum of estimated charges divided by the number of standard billing intervals, all for the next 12 months.~~

~~(5) A customer may request termination of the plan (or withdrawal from the plan) at any time. If the customer's account is in arrears, the customer may be required to bring the account to a current balance before termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to charges for subsequent month's service.~~

~~(6) The level payment plan account balance on the anniversary date shall be carried forward and added to the estimated charges for service during the next year, and this total will be the basis for computing the next year's periodic billing interval level payment amount. The customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of \$25.~~

~~The anniversary date account balance shall not cry forward on an unpaid level payment bill. For delinquency on a level payment plan amount, see paragraph 19.4(11)"e"(9).~~

~~(7) The amount to be paid in each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan. It may be recomputed on each anniversary date, when requested by the customer, or whenever price or consumption, alone or in combination, results in a new estimate differing by 10 percent or more from that in use.~~

~~When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall be served not less than 30 days prior to the date of delinquency for the first payment. The notice may accompany the bill prior to the bill that is affected by the revised payment amount.~~

~~(8) The account shall be balanced upon termination or withdrawal in accordance with the utility's tariff.~~

~~(9) Irrespective of the account balance, a delinquency in payment shall be subject to the same procedures as other accounts for late payment charge on the level payment amount. If the account balance is a debit, a delinquency in payment shall be subject to the same procedures as other accounts for collection or disconnection. If the account balance is a credit, the level payment plan shall terminate after 30 days delinquency.~~

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of customer's bills and

maintain reasonable account balances. The level payment plan shall include at least the following:

- (1) Offered to each eligible customer when the customer initially requests service.
 - (2) Allow for entry into the level payment plan anytime during the calendar year.
 - (3) Provide that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance is due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.
 - (4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and complies with requirements in this subparagraph. The computation method used by the utility shall be described in the utility's tariff and shall be subject to Board approval. The utility shall give notice to customers when it changes the computation method in the level payment plan.
- The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly,

when requested by the customer, or whenever price, consumption, or a combination of factors, results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than 30 days prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.

Item 2. Adopt a **new** paragraph **19.4(11)"f"** as follows:

f. A utility shall provide that a delinquency date for payment may be changed upon written request by a customer to accommodate the date the customer receives income or other similar circumstances. The utility may provide that the delinquency

date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

Item 3. Rescind paragraph **20.4(14)"e"** and adopt a **new** paragraph as follows:

~~e. Level payment plan. All residential customers or other customers whose consumption is less than 3,000 kWh per month may select a plan of level payments.~~

~~The rules for such plan shall include at least the following:~~

~~(1) Be offered when the customer initially requests service.~~

~~(2) Have a date of delinquency changeable for cause in writing; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. The utility's rules may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.~~

~~(3) Provide for entry into the level payment plan anytime during the calendar year. The month of entry shall be that customer's anniversary month.~~

~~(4) The billing period level payment to be the sum of estimated charges divided by the number of standard billing intervals, all for the next 12 months.~~

~~(5) A customer may request termination of the plan (or withdrawal from the plan) at any time. If the customer's account is in arrears, the customer may be required to bring the account to a current balance before termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to charges for subsequent month's service.~~

~~(6) The level payment plan account balance on the anniversary date shall~~

~~be carried forward and added to the estimated charges for service during the next year, and this total will be the basis for computing the next year's periodic billing interval level payment amount. The customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of \$25. The anniversary date account balance shall not carry forward on an unpaid level payment bill. For delinquency on a level payment plan amount, see paragraph 19.4(11)"e"(9).~~

~~(7) The amount to be paid in each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan. It may be recomputed on each anniversary date, when requested by the customer, or whenever price or consumption, alone or in combination, results in a new estimate differing by 10 percent or more from that in use.~~

~~When a customer's payment level is recomputed, the customer shall be notified of the revised payment amount and the reason for the change. The notice shall be served not less than 30 days prior to the date of delinquency for the first payment. The notice may accompany the bill prior to the bill that is affected by the revised payment amount.~~

~~(8) The account shall be balanced upon termination or withdrawal in accordance with the utility's tariff.~~

~~(9) Irrespective of the account balance, a delinquency in payment shall be subject to the same procedures as other accounts for late payment charge on the~~

~~level payment amount. If the account balance is a debit, a delinquency in payment shall be subject to the same procedures as other accounts for collection or disconnection. If the account balance is a credit, the level payment plan shall terminate after 30 days delinquency.~~

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3000 kWh per month. A level payment plan should be designed to limit the volatility of customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance is due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and complies with requirements in this subparagraph.

The computation method used by the utility must be described in the utility's tariff and shall be subject to Board approval. The utility shall give notice to customers when it changes the computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and must be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the revised payment amount not less than 30 days prior to the date of delinquency for the first revised payment. The notice may accompany the bill prior to the bill that is affected by the revised payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account

balance is a credit, the level payment plan shall terminate after 30 days of delinquency.

Item 4. Adopt a **new** paragraph **20.4(12)"f"** as follows:

f. A utility shall provide that a delinquency date for payment may be changed, upon written request by a customer, to accommodate the date the customer receives income or other similar circumstances. The utility may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

June 21, 2004

/s/ Diane Munns

Diane Munns
Chairman